

COURTESY COPY FILED

CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

NOV - 6 2023

CENTRAL DISTRICT OF CALIFORNIA

CALEB L. MCGILLVARY
 PLAINTIFF

v.
 NETFLIX ET AL
 DEFENDANTS

CIVIL ACTION NO.

rsm

DEPUTY

2023-CV-01195-JLS-SK

HON. JOSEPHINE L. STATION, U.S.D.J.;
 HON. STEVE KIM, U.S.M.J.;
 MOTION DATE: TO BE DETERMINED

NOTICE & MOTION FOR EXTENSION OF TIME
 FOR SERVICE UNDER FED. R. CIV. P. 4(m)

PLAINTIFF CALEB L. MCGILLVARY ("PLAINTIFF")
 HEREBY MOVES THE COURT FOR AN ORDER GRANTING
 AN EXTENSION OF TIME TO EFFECT SERVICE
 UNDER FED. R. CIV. P. 4(m). PLAINTIFF RELIES ON THE
 FOLLOWING GROUNDS BY DECLARING PURSUANT TO
 28 USC 1746:

- 1) I AM THE PRO SE PLAINTIFF IN THIS MATTER
- 2) ON AUGUST 14, 2023, THE COURT GRANTED
 ME LEAVE TO PROCEED IN FORMA PAUPERIS
 UNDER 28 USC 1915.
- 3) I SENT USM-285 FORMS FOR EACH KNOWN
 DEFENDANT TO THE CLERK, TOGETHER WITH AN
 APPLICATION TO EFFECT SERVICE BY MAIL UNDER
 RULE 4(f)(3). ON 9/7/23, THE RULE 4(f)(3)
 APPLICATION WAS FILED, BUT THE USM-285 FORMS
 WERE NOT.

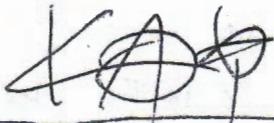
PROOF OF FILING BY PRISON MAIL BOX RULE

I, CALEB L. MCGILLIVRAY, HEREBY DECLARE PURSUANT TO 28 USC 1746 THAT ON 10/31/23 I PLACED INTO THE INSTITUTIONAL MAILING SYSTEM HEREWHERE WHERE I'M INCARCERATED AT NJ STATE PRISON 3RD & FEDERAL STS. TRENTON, NJ 08625; WITH 1ST CLASS POSTAGE PREPAID TO BE SENT VIA USPS REGULAR MAIL; THE ORIGINAL OF MY NOTICE & MOTION FOR EXTENSION OF TIME FOR SERVICE UNDER 46m) & PROPOSED ORDER; TO THE CLERK OF THE USDC-CD CA FOR FILING AT 255 E. TEMPLE ST, RM 180 LOS ANGELES, CA 90012.

I HEREBY INVOCATE THE PRISON MAILBOX RULE.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE & ACCURATE.

EXECUTED THIS 31ST DAY OF OCTOBER, 2023



CALEB L. MCGILLIVRAY, PRO SE

#122265/SB#102317G NJSP

Po Box 861 TRENTON, NJ 08625

4.) I FILED MY FIRST MOTION FOR DUE DISCOVERY ON 9/5/23, WHICH THE MAGISTRATE JUDGE DENIED ON 9/21/23; & WHICH DENIAL I TIMELY OBJECTED TO & REQUESTED REVIEW UPON ON 9/27/23. ECF 35. MY SECOND MOTION FOR DUE DISCOVERY IS FORTHCOMING.

5.) I TWICE ATTEMPTED TO HAVE THE CLERK ISSUE ~~SUMMONS~~, BUT WAS CITED FOR DEFICIENCIES BOTH TIMES. SEE ECF 33. DESPITE MY PRO SE & UNPAID STATUS, I FINALLY GOT IT RIGHT ON OCTOBER 19, 2023, SUMMONS WERE ISSUED ON 10/20/23; SEE ECF 38-55; BUT I DIDN'T RECEIVE THE SUMMONS UNTIL OCTOBER 27, 2023. THIS IS BECAUSE NJ STATE PRISON TAKES A WEEK TO PROCESS OUTGOING & INCOMING MAIL, & MAIL TAKES DAYS TO GET TO THE CLERK, & IT USUALLY TAKES AT LEAST A WEEK FOR THE CLERK TO RESPOND.

6.) ALTHOUGH UNDER 28 USC 1915(d), "THE OFFICERS OF THE COURT SHALL ISSUE & SERVE ALL PROCESS & PERFORM ALL DUTIES IN [IN FORMA PAUPERIS] CASES," I NONETHELESS FILED A REQUEST FOR SERVICE BY U.S. MARSHAL ON 10/10/23. ECF 36.

7.) ON TODAY'S DATE, I PLACED A PARCEL IN THE MAIL CONTAINING USM-285, SUMMONS, &

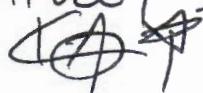
COPIES OF MY FIRST AMENDED COMPLAINT FOR
FELCH NAMED DEFENDANT IN THE INSTITUTIONAL
MAILING SYSTEM WHERE I'M INCARCERATED AT
NJ STATE PRISON WITH 1ST CLASS POSTAGE PREPAID
TO BE SENT VIA USPS REGULAR MAIL TO THE
COURT. LIKE WITH THE SUMMONS IN "5" ABOVE,
NJ STATE PRISON WILL ALMOST CERTAINLY
TAKE FOREVER TO PROCESS MY OUTGOING MAIL.

I HAVE BEEN MAKING DILIGENT EFFORT TO EFFECT
SERVICE BY US MARSHAL UNDER 28 USC 1915(d),
BUT THE LAG TIME WITH SNAIL MAIL HAS
PUSHED UP ON THE CLOCK LIKE NOBODY'S BUSINESS.
I'M LITERALLY FILING STUFF THE NEXT DAY AFTER
RECEIVING DEFICIENCIES, & IF I WAS ELECTRONIC
FILING THIS WOULD'VE BEEN TAKEN CARE OF
MONTHS AGO. BUT JERSEY AINT LIKE CALIFORNIA
WITH E-FILING IN PRISONS, SO I'M DOING THE
BEST I CAN IN GOOD FAITH TO GET THIS DONE.

8) LAST BUT NOT LEAST, 28 USC 1915(d)
SPECIFICALLY STATES THAT THE RESPONSIBILITY IS
ON THE COURT, NOT ME, TO ISSUE SUMMONS &
SERVE PROCESS. ACCORDING TO THE STATUTE, I DID
MY DUTY WHEN I FILED THE USM 285's ON 9/7/23.
I CONSIDER IT AN HONOR & A PRIVILEGE TO ASSIST THE
COURT, BUT I HAVE NOT RELINQUISHED MY RIGHTS

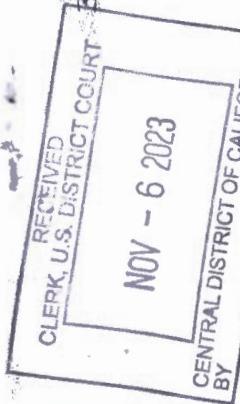
UNDER 28 USC 1915(d) BY DOING SO,

I FOR ALL THE FOREGOING REASONS, GOOD CAUSE EXISTS TO EXTEND TIME FOR SERVICE FOR 60 DAYS AFTER AN ORDER ISSUES DISPOSITION OF MY PENDING RULE 4(F)(3) & 28 USC 1915(d) MOTIONS; OR UNTIL THE MARSHAL PERFECTS SERVICE. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE & ACCURATE. EXECUTED THIS 31st DAY OF OCTOBER, 2023.

RESPECTFULLY SUBMITTED,


CHARLES L. MCGILLVARY, PRO SE
#1222665/SB#102317G NJSP
P.O. Box 861 TRENTON, NJ 08625

McGILLIVRAY
#1222665/SB#1023176
N55SPR6BX821
THE TON, INC
09625



TRENTON NJ O
OCT 2023 PM 3

DEPUTY
HON. STEVE KIM, USAT
USDC - CD CA
COURT ROOM 540, 5TH FLOOR
255 E. TEMPLE ST.
LOS ANGELES, CA

90012-33374

LEGAL MAIL

PROOF OF FILING BY PRISON MAIL BOX RULE

I, CALEB L. MCGILLIVRAY, HEREBY DECLARE PURSUANT TO 28 USC 1746 THAT ON 10/31/23 I PLACED INTO THE INSTITUTIONAL MAILING SYSTEM HEREWHERE WHERE I'M INCARCERATED AT NJ STATE PRISON 3RD & FEDERAL STs. TRENTON, NJ 08625; WITH 1ST CLASS POSTAGE PREPAID TO BE SENT VIA USPS REGULAR MAIL; THE ORIGINAL OF MY NOTICE & MOTION FOR EXTENSION OF TIME FOR SERVICE UNDER 46m) & PROPOSED ORDER; TO THE CLERK OF THE USDC-CD CA FOR FILING AT 255 E. TEMPLE ST, RM 180 LOS ANGELES, CA 90012.

I HEREBY INVOCATE THE PRISON MAILBOX RULE.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE & ACCURATE.
EXECUTED THIS 31ST DAY OF OCTOBER, 2023

KADP

CALEB L. MCGILLIVRAY, PRO SE
#1222665/SB#102317G NJSP
Po Box 861 TRENTON, NJ 08625